IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION NO : 25157 of 1999

Between:

V.Kamalakar S/o Shymal Rao, Hindu
R/o.Hyderabad

..... PETITIONER

AND

A.P. State Ware Housing Corporation

Rep.by its Manging Director
Nampally, Hyderabad

.....RESPONDENT

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.25157 of 1999

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Proceedings No.SWC/E2/2807/96, dated 10-7-1997 of the respondent in preparing the combined seniority list in the cadre of Senior Assistant/Technical Assistant Grade II as arbitrary and illegal and further to direct the respondent to take the services of the petitioner in the cadre of Junior Assistant into consideration for the purpose of preparing the combined seniority list of Senior Assistant/Technical Assistant Grade II for promotion to the post of Supervisor.

It is the case of the petitioner that he was appointed as a Junior Assistant in the Andhra Pradesh State Warehousing Corporation with effect from 16-9-1985. Further,

he was promoted to the post of Senior Assistant with effect from 22-11-1991. The next promotion from the post of Senior Assistant is that of Supervisor. For the purpose of promotion to the post of Supervisor, two feeder categories are available; one is the Senior Assistant and the other is Technical Assistant Grade II. According to the petitioner, as per Note 3 of Appendix III annexed to the Andhra Pradesh State Warehousing Corporation Employees Regulations,1965 (for short 'the Regulations'), the service rendered in the cadre of Junior Assistant also should be taken into consideration for the purpose of fixing *inter se* seniority of Senior Assistants/Technical Assistants for considering promotion to the post of Supervisor. Whereas, the respondent has not taken the service rendered by the petitioner in the cadre of Junior Assistant into consideration for the purpose of fixing *inter se* seniority of Senior Assistants/Technical Assistants Grade II. Therefore, he is put to loss and his juniors in the cadre of Technical Assistant Grade III have marched over him. Hence, this Writ Petition.

Learned counsel for the respondent, though no counter affidavit is filed, strenuously contended that Note 3 of Appendix III of the Regulations does not help the petitioner, particularly for the purpose of counting the seniority of the petitioner rendered in the post of Junior Assistant for preparation of the combined seniority list for promotion to the post of Supervisor.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Proceedings.

At the outset, I am of the opinion that a plain reading of the Regulations would itself show that the petitioner's seniority in the common integrated seniority list of Senior Assistant/Technical Assistant Grade II should be fixed after taking into consideration the service rendered by him in the cadre of Junior Assistant. The Note 3 appended to Appendix III of the Regulations reads as under:

> "3. In case where promotion from different posts is provided, combined seniority list of the posts from which promotion is made shall be followed."

It is an admitted fact that for the purpose of promotion to the post of Supervisor, the integrated seniority list is prepared for the cadres of Senior Assistant and Technical Assistant Grade II put together in the impugned Proceedings i.e. combined seniority

list of Senior Assistants/Godown Keepers/Technical Assistants Grade II. In the said seniority list, the name of the petitioner was shown at Sl.No.18 and the date of his promotion to the post of Senior Assistant was taken into consideration for the purpose of fixing *inter se* seniority; whereas, admittedly, the petitioner was appointed to the post of Junior Assistant with effect from 16-9-1985. The date 16-9-1985 was not taken into consideration for the purpose of preparation of combined seniority list as per Note 3 above. If Note 3 above is taken into consideration, the combined seniority list of the posts from which the promotion is made shall have to be taken into consideration. Admittedly, in this case, such a course of action was not adopted by the respondent.

Therefore, the impugned order insofar as the petitioner is concerned, is set aside and the respondent is directed to fix the seniority of the petitioner in the combined seniority list of Senior Assistants/Godown Keepers/Technical Assistants Grade II taking the date of his joining service as Junior Assistant i.e. 16-9-1985. However, this will not preclude the authorities from considering the cases of similarly placed persons as per Note 3 above for the purpose of preparing combined seniority list.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

28-7-2005

Office to furnish

CC within one week

(B.O.)
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